



State of Utah

Department of
Natural Resources

ROBERT L. MORGAN
Executive Director

Division of
Oil, Gas & Mining

LOWELL P. BRAXTON
Division Director

OLENE S. WALKER
Governor

GAYLE F. McKEACHNIE
Lieutenant Governor

May 26, 2004

TO: Minerals File

FROM: Tom Munson, Senior Reclamation Hydrologist *RM*

SUBJECT: Site Inspection, Red Emerald, Inc., Red Emerald Mine, S/001/058,
Beaver County, Utah

Date of Inspection: May 11, 2004
Time of Inspection: 9:00 a.m. – 12:30 p.m.
Conditions: Sunny, warm
Participants: Ron Day, Bob Thomas & five helpers – Rancho Equipment Services; Clint Christensen and helper Brian – Gemstone Mining, Inc; Ed Ginouves – BLM; and Tom Munson - DOGM

Purpose of Inspection: To inspect the status of the site

Observations:

Upon arriving at the site, I observed two track hoes, two dozers, one loader and a road grader. I met Mr. Ron Day, Bob Thomas and his five helpers. There was also some other people on site, Clint Christensen and his helper Brian. The discussion was held with Mr. Day, Mr. Christensen, the BLM and myself regarding the amount of acreage that had been disturbed and future plans for the site.

It was determined that the site had expanded by approximately two acres beyond the limitation of the approved small mining permit. It was suggested that a \$10,000 "transitional" surety would be required from Red Emerald. They stated it would take 10 days or so to complete the bonding requirement.

We also asked the operator to revise the maps and submit a revised plan to the Division and the BLM which would encompass the seven acres. According to Mr. Christensen (who will be submitting the application), it would take approximately 10 days (about May 21st) to complete that process.

Photos were taken of the site. The reclamation that had occurred on the GMI permit area was also looked at and determined that it was marginal at

Site Inspection

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Red Emerald Mine

S/001/058

Inspection Date: May 11, 2004; Report Date: May 26, 2004

best. At this point in time, it would not be feasible to release that area due to revegetation standards which requires three growing seasons, following the last seeding.

Conclusions and Recommendations:

The Red Emerald Mine site has expanded beyond the approved permit boundary. The operator should be required to mark the disturbed area so no further expansion will occur, submit a large mining operations and reclamation plan and post "transitional" surety at the rate of \$5,000 per acre above and beyond what is already posted with the BLM (@5 acres is already bonded leaving @2 acres needing additional bond).

TM:jb

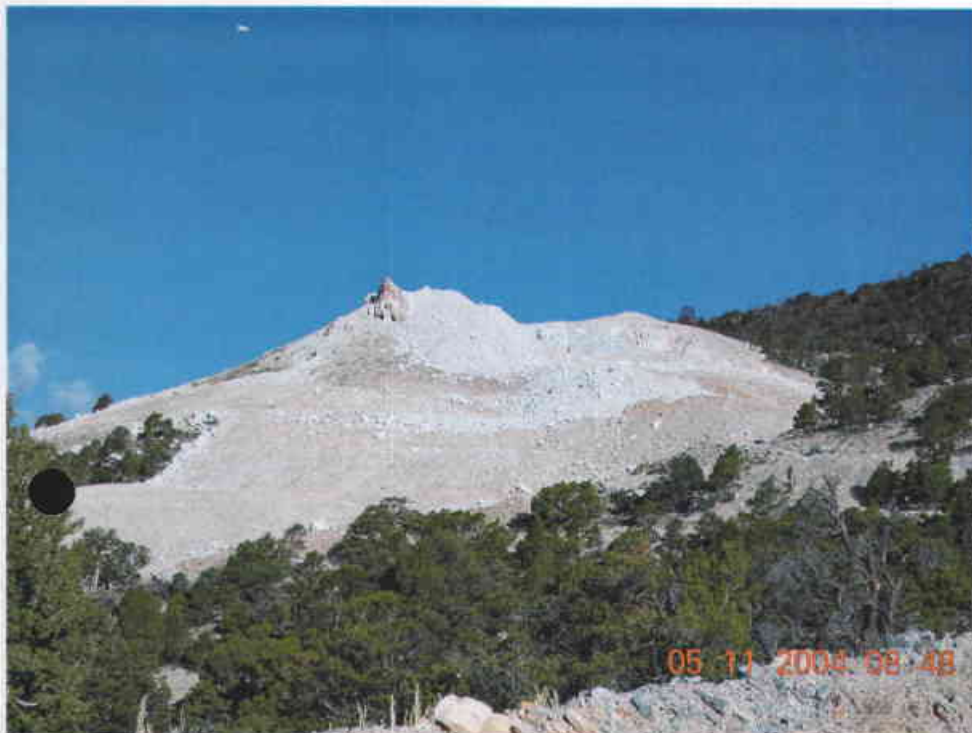
Enclosure: Photos

cc: Earle Foster, Red Emerald, Inc.

Clint Christensen, GMI

Ron Day, Rancho Equipment

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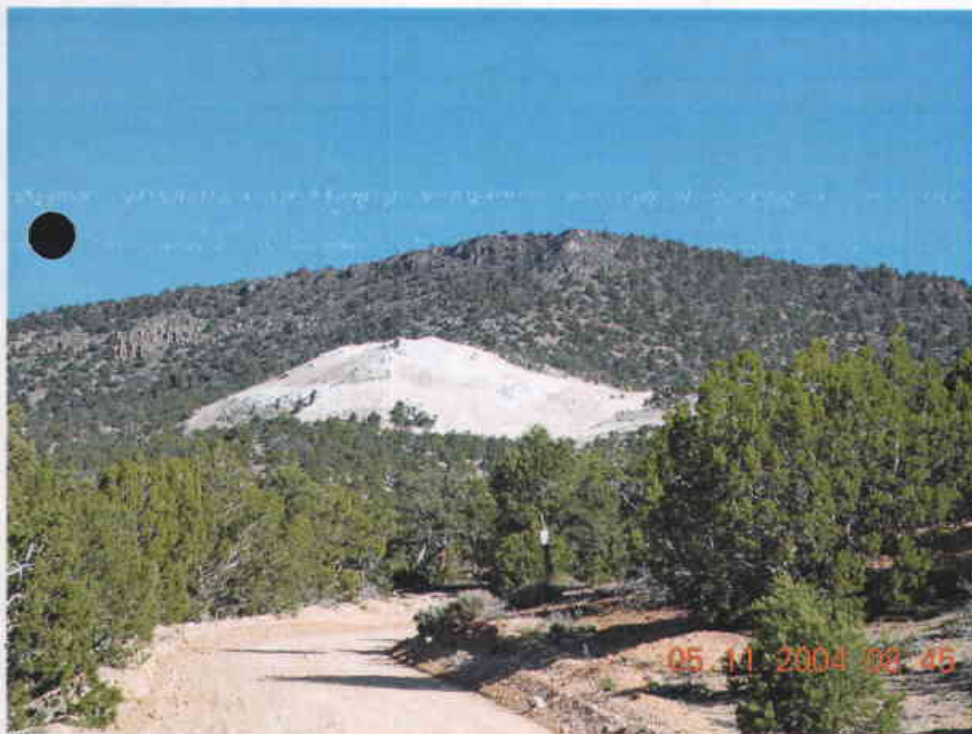
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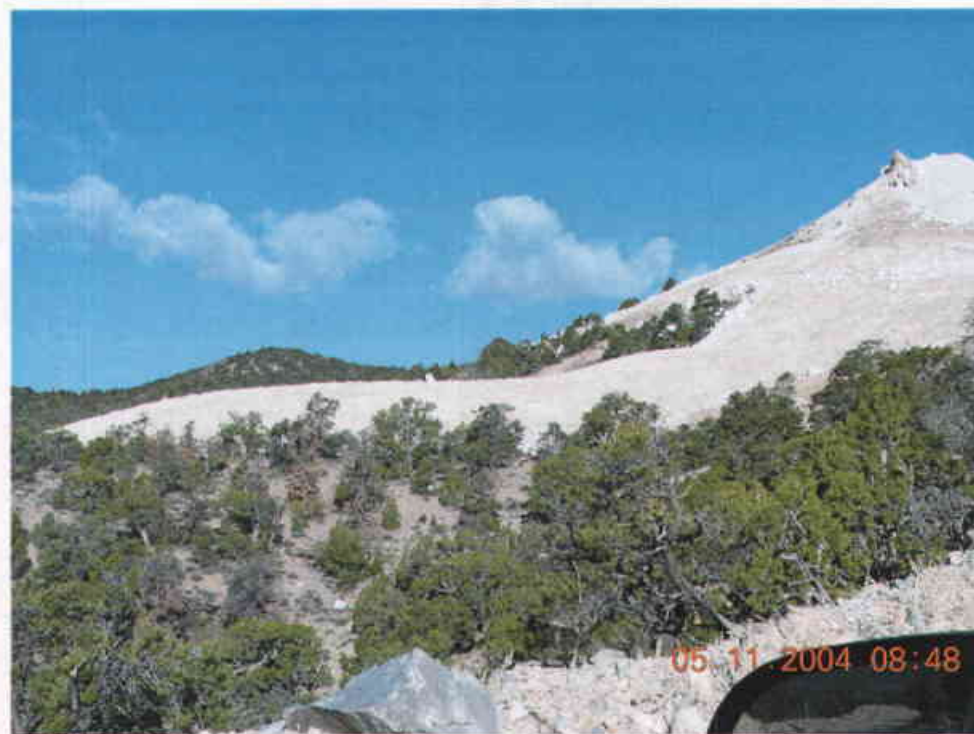
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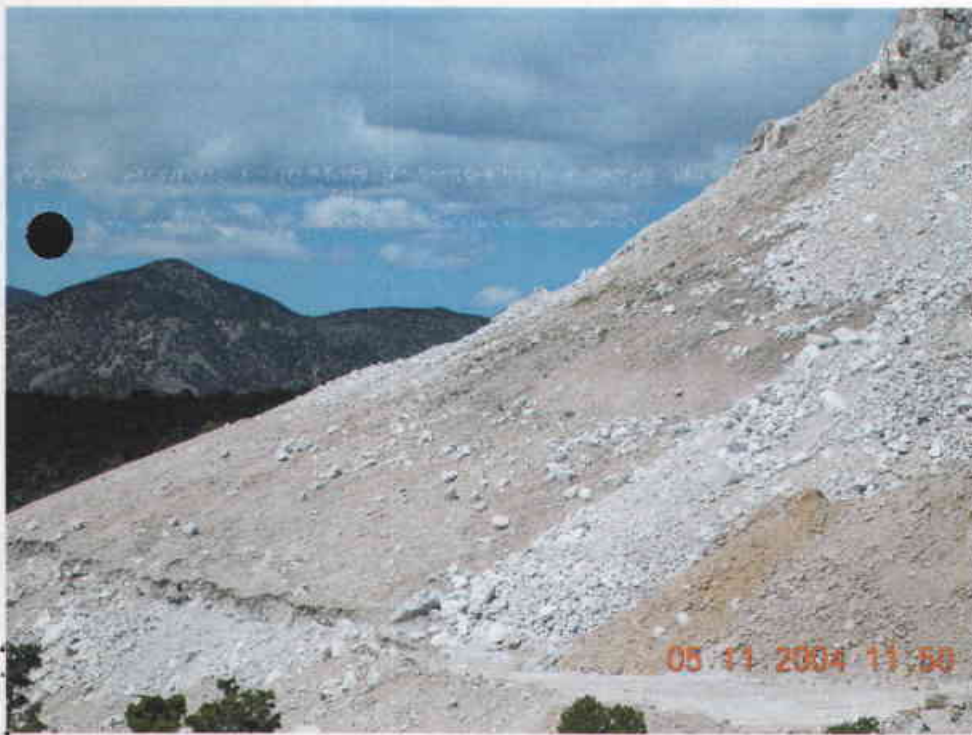
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June 21, 2004

CERTIFIED RETURN RECEIPT 7099 3400 0016 8896 0815

Earle Foster
Red Emerald, Incorporated
3005 West Highway 60
Delta, Utah 84624

Subject: Notice of Non-Compliance, Red Emerald Inc., Red Emerald Mine,
S/001/058, Beaver County, Utah

Dear Mr. Foster:

This letter provides formal notice that mining operations at the Red Emerald Mine (S/001/058), located in Beaver County, Utah, are being conducted in violation of the Utah Mined Land Reclamation Act, 40-801 et. seq. (Act) and the Minerals Reclamation Program Rules, sections R647-1 through R647-5.

A joint site inspection was performed on May 11, 2004 by the Division and Bureau of Land Management (copy attached), which confirmed that mining operations have been conducted outside of the approved 4.98 acre small mine permit area. Therefore, this operation is now considered a large mining operation.

Findings of Non-Compliance

1. Red Emerald Inc. has expanded their mining operations by an additional two acres of surface disturbance. Rule R647-3-113 requires an operator to file a Notice of Intention to Conduct Large Mining Operations and receive Division approval before enlarging a small mining operation beyond five (5) acres of surface disturbance. To date, Red Emerald Inc. Company has failed to file a Notice of Intention to Conduct Large Mining Operations to include this additional disturbance.
2. Rule R647-4-113 requires an operator to post surety with the Division to ensure adequate reclamation is performed, before mining-related disturbances are created. To date, Red Emerald Inc. has not filed adequate reclamation surety to cover the additional two acres of new surface disturbance.

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The present \$24,300 reclamation surety, was calculated in year 2003 to reclaim the 4.98 acres of mining related disturbance on BLM land at the Red Emerald Mine. At the time the surety was submitted to the BLM, the mine was permitted as a Small Mining Operation, less than five acres. The Division did not require bonds for small mines at that time. The Division now bonds for all mining related disturbances and will recognize the bond held by the BLM on the 4.98 acre disturbance.

Location of Non-Compliance

Disturbances associated with Red Emerald Inc. Red Emerald Mine are located in the NW1/4 of Section 29 and the NE ¼ of Section 30, T29S, R14W, SLBM, Beaver County, Utah.

Mitigation Requirements:

1. **Within 30 days from receipt of this letter, Red Emerald Inc. must post an additional \$10,000 (\$5,000 x 2 acres) *transitional* reclamation surety.** This *transitional* surety will remain in place until a permit revision updating the original mining and reclamation plan is submitted and approved. Recognizing the \$24,300 existing bond the BLM holds will bring the total surety to \$34,300. After the LMO permit application is received and determined technically complete by the Division, the surety may need to be adjusted accordingly to reflect the projected reclamation costs as calculated for the approved reclamation plan.

When you determine the type/form of reclamation surety you will post, please contact Joelle Burns at (801) 538-5291 to obtain the proper forms for filing the surety. A Transitional Reclamation Contract (Form MR-TRC) is also required to accompany the surety

2. **Within 30 days from receipt of this letter, Red Emerald Inc. must file a complete Notice of Intention to Conduct Large Mining Operations (FORM MR-LMO), for expanding beyond the five-acre limitation of the small mining operation.**
3. **Until the *transitional* surety is posted and the LMO is approved, Red Emerald Inc. must restrict its mining operations to the current disturbed area footprint. The boundary of the 6.07 acre area (that includes access roads) must be marked with metal T-posts, or other appropriate markers, to ensure that operations are not conducted outside of the current disturbed area. The markers must be placed so they can be seen in either direction with**

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the naked eye. **The markers must be installed within 30 days of your receipt of this notice.**

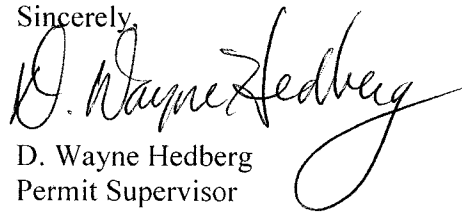
Penalties for Failure to Comply

1. Red Emerald Inc.'s failure to resolve this Notice of Non-compliance within the timeframes set forth in this letter will result in the filing of a formal Notice of Violation with a subsequent penalty assessment. This enforcement action could require the operator to appear at an informal hearing before the Division Director, or a formal hearing before the Board of Oil, Gas and Mining. Following public notice and formal hearing, the Board may issue an abatement or compliance Order which may require: immediate suspension or termination of all mining operations until the revised plan is approved; revocation of the existing permit and immediate reclamation of the site; and/or other lawful requirements as authorized under the Act.
2. The Board may also ask the County prosecutor or attorney general to bring suit against the operator to enforce its Orders and to seek assessment of appropriate penalties, not to exceed \$10,000 for each finding of a knowing or willful violation of the Act.

If you wish to contest this Notice of Non-Compliance you may do so within 10 days of your receipt of this notice. You will need to inform the Division of your decision to appeal and schedule an informal meeting with the Associate Director of Mining and members of the Minerals Program staff, by contacting Vickie Southwick, Executive Secretary, at (801) 538-5304. Your right to appeal this action may be lost if you fail to contact the Division within the allotted 10 day period.

If you have any questions regarding the requirements of this letter, please contact me at (801) 538-5286, or Tom Munson at 538-5321. Thank you for your immediate attention to this matter.

Sincerely,


D. Wayne Hedberg
Permit Supervisor
Minerals Regulatory Program

DWH:TM:jb

cc: Ed Ginouves, BLM (Cedar City)
Mary Ann Wright, Associate Director

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